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ALEXANDER L. STEVAS,
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Nos. 82-952, 82-992, 82-953 & 82-1001

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1982

STATE OF MARYLAND, et al., PEOPLE OF THE STATE OF ILLINOIS, TANDY CORPORATION, and NORTH AMERICAN TELEPHONE ASSOCIATION,

Appellants,

vs.

UNITED STATES OF AMERICA and WESTERN ELECTRIC COMPANY and AMERICAN TELEPHONE AND TELEGRAPH COMPANY,

Appellees.

On Appeal From The United States District Court For The District of Columbia

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AT&T'S MOTION TO EXPEDITE THESE APPEALS

Appellees Western Electric Company and American Telephone and Telegraph Company ("AT&T"), by their attorneys, hereby move to expedite the consideration and decision of these appeals. First, AT&T seeks expedition of the decision on its motion for summary affirmance of each of the appeals. Second, in the event that any or all of the appeals are to be orally argued, AT&T moves that the argument occur this Term.

1. On August 24, 1982, the District Court, with the consent of the parties, entered a Modification of Final Judgment ("MFJ") in this case that achieves the Justice Department's antitrust objectives in over three decades of litigation with the Bell System. It orders AT&T to divest its local exchange functions, which will represent about $100 billion of its approximately $150 billion in assets.

The MFJ will--as is explained more fully in the Plan of Reorganization filed with the District Court on December 16, 1982--be implemented by dividing the present Bell System into nine separately owned entities (AT&T, seven regional companies, and the region-owned Central Staff Organization) and will require a separation of assets and personnel of each of the major components of the Bell System: AT&T, the 22 Bell Operating Companies ("BOCs"), Western Electric Company, and Bell Telephone Laboratories.

Implementation of the MFJ is an enormous and unprecedented undertaking. It must be accomplished while the Bell System continues to provide--throughout the period of this massive reorganization--telecommunications services that are vital to the national economy and the national defense. For these reasons, the division must be performed with care and precision. And as more fully explained below, although the MFJ would allow the split to be completed on February 24, 1984, it must be accomplished even more quickly, by January 1, 1984. This is "because a more prolonged period of uncertainty and transition would impair the financing and efficient management of this enterprise upon which the Nation depends for telephone service." Affidavit of Charles L. Brown, Chairman of the Board of AT&T, p. 2 (filed in the District Court on December 16, 1982).

Even apart from ordering a structural reorganization, the MFJ requires extensive interim planning. To comply with the Decree's equal access requirements (see Appendix B; J.A. 187-90), the Bell Operating Companies will have to reconfigure their exchange networks under the schedule prescribed in Appendix B of the MFJ (id.) and, in any event, file and obtain regulatory approval of exchange access tariffs before January 1, 1984. See id; §II(A); J.A. 175.

2. Four sets of appeals have been filed from the District Court's decision to enter the MFJ. Two of these appeals challenge the District Court's authority to order a reorganization without first obtaining the approval of regulatory commissions in each of the States in which the Bell System operates (Nos. 82-952, 82-992). The other two challenge the MFJ's treatment of equipment on customer premises and patent licensing (Nos. 82-953, 82-1001).

3. The existence of these legal challenges to the MFJ, no matter how insubstantial, create uncertainty that, if allowed to continue, will severely threaten the Bell System's ability to implement the MFJ and to provide telephone service for the Nation--both during the period of transition and beyond. The "state of limbo", moreover, would have repercussions far beyond the Bell System and unavoidably affect the entire telecommunications industry. District Court Order, dated April 8, 1982, p. 6; and see J.A. 206. The reasons include:

> A. Since this structural split of the Bell System was proposed on January 8, 1982, the Bell System has been foreclosed from issuing any BOC bonds, which traditionally provided the major portion of the outside financing for the expansion and modernization needed to provide telephone service. The Bell System cannot adequately finance its operations if the uncertainty is prolonged beyond January 1, 1984. Tr. 25130, 25456-57. The District Court repeatedly recognized the severe adverse impact that uncertainty has upon the Bell System's ability to raise necessary outside capital. J.A. 148, 206. As the District Court recognized, the "spill-over effects of the reorganization may be

expected to be similarly massive," to affect public and private non-Bell interests, and to cause them to delay important business and regulatory decisions as well. J.A. 206.

B. The uncertainty has, in the District Court's words, created a "state of limbo" for the Bell System's more than one million employees (as well as its bondholders and shareholders). April 8, 1982 Order, p. 6. For Bell System employees not to know with certainty where they will be working would impede implementation of the reorganization and strain vital operational decisions during the transitional period.

C. Finally, the fact that neither industry participants nor regulators can now know with certainty how the industry is to be structured will affect public decisionmaking until the uncertainty is removed. "[S]tate regulators will be prevented from establishing appropriate policies," April 8, 1982 Order, supra, p. 6, and private and public interests may "be delaying important business and regulatory decisions" J.A. 206.

4. In recognition of these factors, the District Court conducted the proceedings relating to entry of the MFJ in this case with the utmost expedition. The continued expedition of these cases is essential to put the potentially crippling uncertainty to a timely end. As the District

Court found "[i]mmediate consideration of the appeals by the Supreme Court would largely avoid all these problems." Id.

Wherefore AT&T prays, first, that this Court expedite the consideration and decision of AT&T's motion summarily to affirm the appeals and, second, in the event that oral argument is to be scheduled in any or all of the appeals, that it occur this Term.

Respectfully submitted,

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